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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,162	07/31/2001	Jean-Christophe Renault	LUD 5684.2 CIP (10106926)	3161
7590 08/23/2005			EXAMINER	
Fulbright & Jaworski LLP 666 Fifth Avenue New York, NY 10103			JIANG, DONG	
			ART UNIT	PAPER NUMBER
			1646	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/919,162

Applicant(s)

RENAULD ET AL.

Examiner

Dong Jiang

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3,6,9,12 and 34-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 3,6,9,12, 34 and 35 is/are rejected.  
7) ☒ Claim(s) 36 and 37 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

### **DETAILED OFFICE ACTION**

Applicant's amendment filed on 06 June 2005 is acknowledged and entered. Following the amendment, claims 1, 2, 4, 5, 7, 8, 10, 11, 17, 18 and 31-33 are canceled, claim 3 is amended, and the new claims 34-37 are added.

Currently, claims 3, 6, 9, 12 and 34-37 are pending and under consideration.

#### **Withdrawal of Objections and Rejections:**

All objections and rejections of claims 1, 2, 4, 5, 7, 8, 10, 11, 17, 18 and 31-33 are moot as the applicant has canceled the claims.

The objection of claim 3 for encompassing a non-elected subject matter, SEQ ID NO:10 is withdrawn in view of applicant's amendment.

The provisional double patenting rejection of claims 3, 6, 9 and 12 is withdrawn in view of applicant's amendment.

The rejection of claims 3, 6, 9, 12 under 35 U.S.C. 112, second paragraph, as being indefinite is withdrawn in view of applicant's amendment.

#### **Formal Matters:**

##### ***Specification***

The disclosure remains objected to because it contains an embedded hyperlink and/or other form of browser-executable code (page 6, lines 9, 10 and 19, for example), for the reasons of record set forth in the last Office Action mailed on 22 September 2004, at page 2.

Applicants argument filed on 06 June 2005 has been fully considered, but is not deemed persuasive for reasons below.

At page 4 of the response, the applicant argues that the MPEP does not prohibit the use of information at page 6 if it is presented in the manner applicants have. This argument is not persuasive because MPEP indeed prohibits the use of embedded hyperlinks as it clearly states (MPEP § 608.01):

Examiners must review patent applications to make certain that hyperlinks and other forms of browser-executable code, especially commercial site URLs, are not

included in a patent application. Examples of a hyperlink or a browser-executable code are a URL placed between these symbols "< >" and http:// followed by a URL address. When a patent application with embedded hyperlinks and/or other forms of browser-executable code issues as a patent (or is published as a patent application publication) and the patent document is placed on the USPTO web page, when the patent document is retrieved and viewed via a web browser, the URL is interpreted as a valid HTML code and it becomes a live web link. When a user clicks on the link with a mouse, the user will be transferred to another web page identified by the URL, if it exists, which could be a commercial web site. USPTO policy does not permit the USPTO to link to any commercial sites since the USPTO exercises no control over the organization, views or accuracy of the information contained on these outside sites.

If hyperlinks and/or other forms of browser-executable code are embedded in the text of the patent application, examiners should object to the specification and indicate to applicants that the embedded hyperlinks and/or other forms of browser-executable code are impermissible and require deletion. This requirement does not apply to electronic documents listed on forms PTO-892 and \*>PTO/SB/08< where the electronic document is identified by reference to a URL. The attempt to incorporate subject matter into the patent application by reference to a hyperlink and/or other forms of browser-executable code is considered to be an improper incorporation by reference. See MPEP § 608.01(p), paragraph I regarding incorporation by reference.

In the instant case, the hyperlinks or the browser codes presented in the specification are executable codes, and therefore, they are prohibited according to MPEP. The Applicant is required to delete these embedded hyperlink and/or other form of browser-executable code.

### ***Claims***

Claims 3, 36 and 37 are objected to for the improper recitation of sequence number "SEQ. ID. NO:". The proper format to recite a sequence is "SEQ ID NO:". Correction is required

Claims 36 and 37 are further objected to as being dependent upon a canceled claim, claim 1. The applicant is required to rewrite the claims in independent form including all of the limitations of the base claim and any intervening claims, or to amend the claims to depend on a pending and elected claim.

### **Rejections Over Prior Art:**

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 6, 9, 12, 34 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Presnell et al., US2002/0012669 A1, for the same reasons addressed in the rejection of claims 1, 2, 4, 5, 7, 8, 10, 11, 17, 18, and 31 under 35 U.S.C. 102(e) as being anticipated by the same reference, set forth in the last Office Action mailed on 22 September 2004, at page 7.

**Conclusion:**

No claim is allowed.

Claims 36 and 37 would be allowable if amended to overcome the objections thereto.

Art Unit: 1646

**Advisory Information:**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on Monday - Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on 571-272-0829. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
LORRAINE SPECTOR  
PRIMARY EXAMINER

Dong Jiang, Ph.D.  
Patent Examiner  
AU1646  
8/10/05